

Clerk, U.S. District Court
Southern District of Texas
FILED

SEP 22 2014

David J. Bradley, Clerk of Court

A091 (Rev. 8/01) Criminal Complaint

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA
V.
ESTEBAN ARROYO

CRIMINAL COMPLAINT

Case Number: **C-14-1005 m**

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 9/21/2014 in Brooks County, in the
(Date)

Southern District of Texas defendant's **ESTEBAN ARROYO**

whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; shall, where the acts in violation of this section constitute any simple misdemeanor, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.
(Ordered amended 9/22/14 per JBL)

in violation of Title 18 United States Code, Section(s) 111
I further state that I am a(n) Special Agent and that this complaint is based on the
following facts:
Official Title

See Attached Affidavit of ICE Special Agent **Kevin Burgin**

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Signature of Complainant

Kevin Burgin
Printed Name of Complainant

Sworn to before me and signed in my presence,

September 22, 2014

Date

at

Corpus Christi, Texas

City and State

Jason B. Libby U.S. Magistrate Judge

Name and Title of Judicial Officer

Signature of Judicial Officer

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AFFIDAVIT

On September 21, 2014, at approximately 1200 PM, U.S. Border Patrol Agent (BPA) Gerardo Ibarra observed a gray Lincoln Town Car load up with several individuals, on northbound Highway 281, near the Brooks county rest area. Via radio, Agent Ibarra alerted nearby Border Patrol units to what he'd observed. Shortly afterwards BPA's Marko Garza and Edgar Garcia observed a Lincoln Town Car pass their location at U.S. Highway 281 and Airport Road F.M. 2191. Agents observed the Lincoln preparing to exit Highway 281, when it made a sudden move to stay on the highway upon noticing the agent's stationary unit on the frontage road.

Agents proceeded northbound on Highway 281 in order to intercept the Lincoln. As agents closed in on the Lincoln it exited Highway 281, via the Magnolia Street exit, turned right and parked in front of a church. Before agents could activate their emergency equipment four (4) individuals absconded from the vehicle and ran into the nearby brush. Agent Garza was able to apprehend two (2) of the individuals, while Agent Garcia followed and attempted to apprehend an individual, later identified as Esteban ARROYO. As Agent Garcia approached ARROYO, he noticed what he believed to be a knife clipped in ARROYO's back pocket. As he attempted to affect the arrest of ARROYO, ARROYO became combative, assaulted Agent Garcia and took Agent Garcia to the ground. Agent Garcia was able to get back to his feet, when he observed ARROYO reaching towards the pocket in which Agent Garcia had noticed the knife. At this time Agent Garcia deployed his USBP issued Sabre Red Oleoresin Capsicum spray against ARROYO and was able to affect the arrest. After affecting the arrest Agent Garcia removed a Smith & Wesson ExtremeOps knife with a 3 ¼ inch blade from ARROYO's person. ARROYO was treated by EMS personnel, before being transported to the USBP office in Falfurrias, Texas for further processing.

The driver of the Lincoln Town car, identified as Angelica SANTOS was arrested transported to the USBP office in Falfurrias, Texas for further processing.

Both ARROYO and SANTOS were given their Miranda Rights in the language of their choosing (English) by Agent Garza with Agent Ibarra present as a witness. Both ARROYO and SANTOS signed a written waiver of their rights indicating they understood their rights and indicated they would answer agent's questions, without the presence of attorneys.

Under questioning of USBP agents ARROYO made the following statements:

- He was doing SANTOS a favor by accompanying her to pick up her friends in Falfurrias.
- He was heavily intoxicated and had not slept, so he didn't recall anything other than being asleep in the vehicle, until he was awake to USBP agents running after the persons who'd absconded from the vehicle.

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Under questioning of USBP agents SANTOS made the following statements:

- ARROYO had called her that morning and asked her to do him a favor by driving him to Falfurrias, Texas to pick up some friends.
- Upon arrival in Falfurrias ARROYO directed her to drive to the Brooks County rest area. Upon arrival near the rest area ARROYO directed her to turn northbound, where to pull over on the side of the road where three individuals got into the vehicle.
- ARROYO had been on the phone with the individuals, before they picked them up.
- Upon the individuals getting into the car, at that point SANTOS said she knew they were illegal aliens, due to their appearance and stench.
- She overheard one of the alien's say they hadn't eaten or had any water in three (3) days.
- She was going to stop at a gas station to get the aliens something to eat & drink, when ARROYO saw a USBP vehicle near the exit and instructed her to continue northbound.
- ARROYO instructed her to exit the highway when he observed a USBP vehicle behind them.
- Upon turning on the road ARROYO told her to park at the church and for everyone to run.
- There was no financial gain for her.

MATERIAL WITNESS STATEMENTS:

Material Witness Jesus FAJARDO-Renteria.

Under questioning of USBP agents FAJARDO-Renteria made the following statements:

- He'd entered the United States illegally on or about August 11, 2014.
- He stayed at several stash houses until a few days ago, when he was transported north and dropped off in the brush south of the USBP checkpoint and told to walk north.
- He was given ARROYO's number by the brush guide so he could call ARROYO and make arrangements for their pickup.
- He'd spoken with ARROYO the night prior, who instructed him to head towards the highway and give ARROYO a description of their location.
- He'd kept in touch with ARROYO, telephonically, all morning.
- Once ARROYO was nearby he instructed them to come out to the highway.
- ARROYO got out of the vehicle, opened up the door and instructed them to get inside.
- They had no interaction with SANTOS and none with ARROYO, until ARROYO told them to run when they were at the church.

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Upon Arrival of HSI Special Agent Kevin Burgin, SANTOS and ARROYO also agreed to voluntarily speak, without the presence of attorneys.

SANTOS stated to Special Agent Burgin, she'd been doing a favor for ARROYO, when he asked her to drive to Falfurrias to pick up three (3) friends of his. She believed they were picking up ARROYO's friends in Falfurrias and was surprised when ARROYO directed her to drive south of town. Upon picking up the three individuals on the side of the road, judging by their appearance and stench she then realized they were illegal aliens. She overheard one of the aliens saying how they hadn't eaten or drank anything in three (3) days, so she was going to go to the Stripes to get them something, when ARROYO noticed a USBP vehicle parked nearby and told her to continue on. ARROYO instructed her on where to exit and where to, which is how they ended up at the church. As he was getting out of the vehicle, ARROYO directed the aliens to run and told her to leave. She admitted she'd put her car in gear to leave, but then changed her mind. ARROYO had called the aliens at least two (2) times, before they picked the aliens up. She was unaware ARROYO was armed with a knife.

ARROYO stated to agents he was never reaching for his knife when confronted by the agent. Said the only reason the agent knew he had a knife is because a bystander, who's yard they were in, brought the knife to the agents attention. When pulled over by USBP, the agent ran over and began hitting the driver side window with his gun, so he became scared and ran. Claimed he'd been drinking all night, celebrating his brother's birthday, and was asleep during the whole trip, only awakening at the sounds of the doors opening and people running. ARROYO said he didn't recall if he had his phone with him or not, due to being extremely intoxicated and sleep deprived. ARROYO denied he attempted to retrieve his knife, didn't remember having a knife and denied ever fighting with the agent. ARROYO denied having any knowledge of any aliens.

MATERIAL WITNESS STATEMENTS:

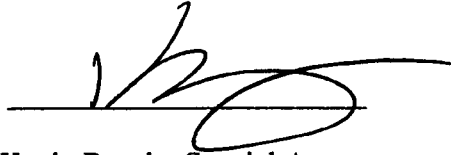
Material Witness Jesus FAJARDO-Renteria.

Jesus FAJARDO-Renteria stated he illegally entered the United States on or about August 11, 2014. Upon entry FAJARDO-Renteria stated he was taken to several stash houses before being taken north. HIS ultimate destination was Atlanta, Georgia, but ARROYO was to take him to Houston, Texas. He'd never met ARROYO before, but recognized his voice as the same person with whom he'd been speaking to on the telephone. When in the car it was apparent ARROYO was in charge. SANTOS never spoke to him. He never saw ARROYO sleeping. ARROYO was who instructed them to run, when at the church.

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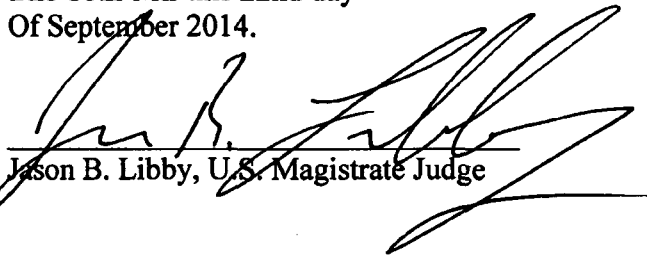
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The facts of the case were presented to the Assistant United States Attorney Robert Thorpe who accepted prosecution of Esteban ARROYO, for violation of Title 18 USC 111, Assaulting, revisiting, or impeding Certain officers or employees, Title 8 United States Code § 1324, Alien Smuggling and Angelica SANTOS for violation of Title 8 United States Code § 1324, Alien Smuggling.

A handwritten signature in black ink, appearing to read 'Kevin Burgin', written over a horizontal line.

Kevin Burgin, Special Agent
Homeland Security Investigations

SUBSCRIBED AND SWORN TO
BEFORE ME this 22nd day
Of September 2014.

A large, stylized handwritten signature in black ink, written over a horizontal line.

Jason B. Libby, U.S. Magistrate Judge